

fore, could proceed no further in the case. Since the government was entitled, at the time the case was tried, to a judgment or decree as prayed, and, in view of the death of the defendant, a decree will be entered nunc pro tunc as of the date the case was submitted.

FINDINGS OF FACT

"1. All of the literature used by the defendant and offered in evidence, whether used over the container of the drug or in the packages, actually physically accompanying the drug, or whether sent before, or subsequently, served the function of labeling and should be treated as such.

"2. Such literature and drugs were introduced and were being introduced by the defendant in interstate commerce through the mails as alleged in the complaint.

"3. Said literature was intended by the defendant as a labeling of his drug and actually served that purpose as well as for advertising matter.

"4. Said literature as labeling matter misrepresented the efficaciousness of said drug or drugs and operated as a fraud upon the public.

CONCLUSIONS OF LAW

"1. The defendant having misbranded his drugs by labels attached thereto or accompanying same, and such misbranding having been done in interstate commerce, the defendant should be enjoined from further violations of Section 331, Title 21 U. S. C. A."

On or about October 14, 1946, a decree was entered permanently enjoining the defendant, his agents, and all persons at that time or thereafter, acting by, through, or under the defendant, from distributing in interstate commerce or exporting in foreign commerce a large supply of the tablets which he had on hand at his place of business in Kansas City, Mo., or at any other point, or any other quantity of drugs subsequently acquired, which were misbranded; and it was further ordered that the decree take effect as of September 27, 1946.

1981. Action to enjoin and restrain the interstate shipment of Mag-Net-O-Balm. U. S. v. Samuel Cohen (S. C. Sales Co.). Injunction granted. (Inj. No. 136.)

COMPLAINT FILED: On March 15, 1946, District of Maryland, against Samuel Cohen, an individual, and Samuel Cohen, trading as S. C. Sales Co. The complaint charged that prior to and since July 1, 1945, the defendant had been shipping in interstate commerce consignments of *Mag-Net-O-Balm*, a drug, which was misbranded in various respects.

NATURE OF CHARGE: Misbranding, Section 502 (a), the statements on the tubes and cartons and in a circular accompanying a shipment made on or about July 11, 1945, were false and misleading since the statements in the labeling represented that the article would be efficacious in the treatment of reducible rupture, rheumatic pains, chest colds, head colds, symptomatic rheumatic pains, muscular lumbago, stiff neck, sprains, and sciatica. Other shipments of the product made prior to that time were misbranded because of similar false and misleading curative and therapeutic claims.

PRAYER OF COMPLAINT: That the defendant be restrained and enjoined, during the pendency of the action and permanently, from shipping in interstate commerce misbranded drugs.

DISPOSITION: May 29, 1946. The defendant having failed to file an answer or any other pleading, a permanent injunction was granted against the defendant individually, and trading as the S. C. Sales Co., from shipping in interstate commerce the drug, *Mag-Net-O-Balm*.

1982. Misbranding of Allen's Nijara Capsules. U. S. v. Allen Products Co., Inc., and Marion Allen. Pleas of guilty. Fine, \$75. (F. D. C. No. 10539. Sample Nos. 37131-F, 37143-F, 37149-F.)

INFORMATION FILED: March 24, 1945, District of Columbia, against the Allen Products Co., Inc., Washington, D. C., and Marion Allen, president of the corporation.

ALLEGED SHIPMENT: On or about February 24 and March 23, 1943, within the District of Columbia.